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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/640,557	08/13/2003	Marc M. Matter	03-270	8348

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EXAMINER

FOX, CHARLES A

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/640,557

Applicant(s)

MATTER, MARC M.

Examiner

Charles A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 5-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 5-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 19-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 19 has the new limitation of 4 engagement means being used with the two drive screws, this is not enabled by the specification or drawings. The only engagement means described or shown are two threaded members (60) which are spaced apart in a sideways manner to correspond to the two drive screws. In figure 3 it is clearly shown that the engagement members (60) are one piece that extend very nearly from the top to bottom of the third planer member. As this limitation is not enabled and considered new matter in the art rejections below it will be treated as two spaced apart members corresponding to the two screws as disclosed by applicant. The above described new matter must be cancelled from the application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1,10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim. Regarding claim 1 Kim US 2001/0038786 discloses a hand truck comprising:

a frame (10) having a plurality of wheels (11) attached;

an electrically powered lift member attached to said frame;

said lift member having a first generally horizontal planer member (21);

a second planer member attached to said first planer member in a perpendicular orientation;

a third planer member (23) attached to said second member, with each end of third planer member slidably coupled to said side rails via rollers (22);

said frame having a pair of vertical side members (10a);

each of said side members having a channel to maintain said lift member in a aligned orientation as the lift member moves up and down;

said alignment means are rollers (22) mounted at the top and bottom of the third planer member.

Regarding claim 10 Kim also discloses that each of said wheels are attached to a structural frame member attached to a respective vertical side frame member. See figure 3.

Regarding claim 14 Kim further teaches handles (13) attached to said frame.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim as applied to claim 1 above, and further in view of Gillette et al. Kim teaches the limitations of claim 1 as above, he does not teach the lifting member as having forks. Gillette et al. US 6,557,869 teaches a hand truck with fork members (35) making up the lifting portion of the device. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Kim with forks as taught by Gillette et al. in order to allow the device to lift cargo that is loaded onto a pallet.

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim as applied to claim 1 above, and further in view of Berthiaume et al. Kim teaches the limitations of claim 1 as above, he does not teach using a net on his hand truck. Berthiaume et al. US 6,302,414 teaches a hand truck with a net (81) being fastened to a plurality of location on the truck to secure a load thereto. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Rhodes with a net and associated means for holding the net as taught by Berthiaume et al. in order to provide stability to a load placed upon the lift member.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim as applied to claim 1 above, and further in view of Holmes. Kim teaches the limitations of claim 1 as above, he does not teach using a cable to lift the load platform. Holmes US 6,309,168 teaches a hand truck comprising:

- a frame having a plurality of wheels attached;

- an electrically powered lift member(40) attached to said frame;

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said frame having a pair of vertical side members (20);

each of said side members having a means to maintain said lift member in a level orientation as the lift member moves up and down;

a reversible electric motor (34) attached to said frame;

a cable spool attached to said motor (not numbered);

a cable (36) connected to said spool and said lift member for causing movement of said lift member as cable is wound onto and off of said spool. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Kim with a cable system as taught by Holmes in order to lighten the weight of the device while maintaining the ability to lift heavy loads, and also to allow a single drive system to be used on a plurality of hand trucks as needed, thereby decreasing the cost of the overall system.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim and Holmes as applied to claim 17 above, and further in view of Paterson et al. Kim and Holmes teach the limitations of claim 17 as above, they do not teach a gear reducer between the motor and the spool. Paterson et al. US 5,803,437 teaches a winch comprising :

a mounting housing (20);

an electric motor(14);

a cable spool (18);

a reduction gearing assembly (28) operable connected between said motor and said cable spool. It would have been obvious to one of ordinary skill in the art, at the

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time of invention to provide the device taught by Kim with a reduction gear assembly as taught by Paterson et al. in order to allow a smaller motor to lift a larger load.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magoffin in view of Garvey '083 and further in view of Kim. Magoffin US 795,147 teaches a hand truck comprising:

- a U-shaped frame (14,21);

- a lift member (24) for upwards and downwards movement relative to said frame;

- means (33,37) for maintaining said lift member in a substantially horizontal orientation as it is moved up and down;

- a pair of rotatable screw members (16) attached to said frame;

- said lift member having means (22,23) for engaging said screws so as to move said lift member upwards and downwards when said screws are turned;

- at least one drive (54) for raising and lowering said lifting member by rotating said screws via a spur gear (51). Magoffin does not teach the hand truck as having a motor to drive the lifting device or three planer members making up the lifting platform assembly. Garvey '083 teaches a lifting device for a hand truck that is driven by an electric motor Garvey does not teach three planer members making up the lift platform.

Kim US 2001/0038786 teaches a hand truck comprising:

- a frame (10) having a plurality of wheels (11) attached;

- an electrically powered lift member attached to said frame;

- said lift member having a first generally horizontal planer member (21);

a second planer member attached to said first planer member in a perpendicular orientation;

a third planer member (23) attached to said second member, with each end of third planer member slidably coupled to said side rails via rollers (22);

said frame having a pair of vertical side members (10a);

each of said side members having a channel to maintain said lift member in a aligned orientation as the lift member moves up and down;

said alignment means are rollers (22) mounted at the top and bottom of the third planer member.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Magoffin with an electric motor as taught by Garvey '083 in order to make it easier for an operator to raise the load from a ground level and to further provide a platform as taught by Kim in order to allow the device to move smoothly and easily without binding in the frame.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Magoffin, Garvey '083 and Kim as applied to claim 19 above, and further in view of Davis et al. Magoffin, Garvey '083 and Kim teach the limitations of claim 19 as above, they do not teach the device as having two motors. Davis et al. US 6,848,675 teaches an electrical hoist drive system comprising :

a pair of drive motors (310,320);

said motors connected to a gear box with spur gears (342,352);

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wherein said spur gears move transmission members (344,354) to raise and lower a load. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by over Magoffin with redundant motors as taught by Davis et al. in order to lift a platform uniformly without the need for a separate brake while maintaining a high degree of accuracy in the positioning of the lift member.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Magoffin, Garvey '083 and Kim as applied to claim 19 above, and further in view of Gillette et al. Magoffin, Garvey '083 and Kim teach the limitations of claim 19 as above, they do not teach the lifting member as having forks. Gillette et al. US 6,557,869 teaches a hand truck with fork members (35) making up the lifting portion of the device. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Magoffin with forks as taught by Gillette et al. in order to allow the device to lift cargo that is loaded onto a pallet.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Magoffin, Garvey '083 and Kim as applied to claim 19 above, and further in view of Audet Magoffin, Garvey '083 and Kim teach the limitations of claim 19 as above, they do not teach the hand truck as having 4 wheels. Audet US 5,938,396 teaches a hand truck with two main wheels (20) and two auxiliary wheels (26) mounted to the main frame of the truck. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Magoffin with auxiliary wheels as taught by Audet in order to increase the stability of the hand truck as it is being used.

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Claims 5,8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim as applied to claim 1 above and further in view of Magoffin in view of Davis et al. Kim teaches the limitations of claim 1 as above, he does not teach using two drive screws. Magoffin teaches a hand truck comprising:

- a frame (14,21) with a plurality of wheels;

- a lift member (24) for upwards and downwards movement relative to said frame;

- means (33,37) for maintaining said lift member in a substantially horizontal orientation as it is moved up and down;

- a pair of rotatable screw members (16) attached to said frame;

- wherein said screw members are supported by bearings mounted on said frame;

- said lift member having means (22,23) for engaging said screws so as to move said lift member upwards and downwards when said screws are turned;

- at least one drive (54) for raising and lowering said lifting member by rotating said screws via a spur gear (51). Magoffin does not teach the device as having two motors. Davis et al. teaches an electrical hoist drive system comprising :

- a pair of drive motors (310,320);

- said motors connected to a gear box with spur gears (342,352);

- said motors supported on a frame member (not numbered) that is connected to two vertical side frame members (not numbered), (see figure 3);

- wherein said spur gears move transmission members (344,354) to raise and lower a load. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Kim with two drive screws as taught by

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Magoffin and further to provide two motors as taught by Davis et al. in order to lift a platform uniformly without the need for a separate brake while maintaining a high degree of accuracy in the positioning of the lift member.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim, Magoffin and Davis et al. as applied to claim 5 above, and further in view of Bross. Kim, Magoffin and Davis et al. teach the limitations of claim 5 as above they do not teach a sprocket and chain assembly for driving the screws. Bross US 3,768,628 teaches a lift assembly comprising:

- a plurality of screws (90);

- a spur gear (62) at one end of each screw

- a driven motor with a spur gear (56) on an output shaft;

- a transmission means (58) for turning the screws in a synchronized manner;

said transmission means comprising a chain with links. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Kim with the chain drive as taught by Bross to drive the screws without the need for elaborate gear and linkage assemblies, thereby lowering the manufacturing costs of the device.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim as applied to claim 10 above, and further in view of Wagner et al. Kim teaches the limitations of claim 10 as above, he does not teach the hand truck as having a plurality of wheels on each structural member Wagner et al. US 5,406,996 teaches a hand truck (10) comprising :

a vertical frame structure (12,16);
a lift device (36) mounted on said frame structure;
a lower horizontal frame structure (20,22);
said lower frame structure having a pair of wheels (24,26) mounted on each side;
wherein a smaller wheel (26) is mounted in front of a larger wheel (24). It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Rhodes with a second pair of wheels as taught by Wagner et al. in order to enable movement of the device without needing to tip the lift device from a horizontal orientation.

Response to Amendment

The amendments to the specification and claims filed on December 12, 2005 have been entered into the record.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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